

IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF OKLAHOMA

IN RE:
ALL PHASE CONSTRUCTCION AND
ROOFING, LLC,

Debtor,

SUSAN MANCHESTER, Trustee,

Plaintiff,

vs.

RICKY SHARPTON,

Defendant.

Case No. BK-17-12414-SAH
Chapter 7

Adversary No.

**COMPLAINT TO COLLECT ACCOUNT RECEIVABLES, TO AVOID FRAUDULENT
TRANSFERS AND FOR TURNOVER OF PROPERTY OF THE ESTATE**

The Complaint of Susan Manchester respectfully alleges:

1. That Susan Manchester is the duly qualified and acting Trustee in this case.
2. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §1334 and 28 U.S.C. §157.
3. The Trustee does consent to entry of final orders or judgment by the bankruptcy court pursuant to rule 7008.

FACTUAL BACKGROUND

4. On June 18, 2017, the Debtor, All Phase Roofing and Construction, LLC, filed a Chapter 7 bankruptcy proceeding.
5. At the time the Debtor filed this bankruptcy, it owed secured creditors the sum of \$583,425.68 and general unsecured creditors the sum of \$350,193.59.

6. The Debtor's Schedules provide that when it filed this bankruptcy it owned approximately \$203,712.28 of non-exempt assets. Schedule D provides these non-exempt assets are all secured.

7. Within one year of the filing of this bankruptcy the following lawsuits or counterclaims were filed against the Debtor:

Case Title Case Number	Nature of the Case	Court or Agency	Status of the Case
EBF Partners, LLC, Plaintiff, v. All Phase Roofing and Construction, LLC d/b/a All Phase Roofing and Construction, LLC and Ricky Dale Sharpton, Defendants. 2017602770	Collection	Supreme Court of the State of New York, County of Nassau, Mineola, NY11501	Judgment against Debtor in March, 2017 for \$76,218.94
All Phase Roofing and Construction, LLC, Plaintiff, v. J.D. McBride Construction, LLC, filed 04/03/17	Counterclaim; damages of \$24,115.97	District Court of Payne County, Oklahoma	Pending

8. The Debtor's Statement of Financial Affairs reflects that within six months of the filing of this bankruptcy, the Debtor made the following transfers to Ricky Sharpton, the sole member of the Debtor. The Debtor stated at the §341 hearing that no consideration was paid for the transfers.

Person who received transfer	Description and value of property transferred	Describe any property or payments received or debts paid in exchange	Date transfer was made
Ricky D. Sharpton, 3400 East Airport Road, Stillwater, OK 74075, President/Manager	\$75,000.00	Transfer of Real Property described as A tract of land in the SW/4 of Section 32, T20N, R3E of the IM, Payne County, Oklahoma, 578.36 feet x 419.26 feet x 574.52 feet x 423.67 feet; commonly known as 3400 E. Airport Road, Stillwater, OK 74075 because it is the homestead of Ricky D. Sharpton	12/12/16
Ricky D. Sharpton, 3400 East Airport Road, Stillwater, OK 74075, President/Manager	\$7,225.00	Transfer of 2011 Ford F350 Super Duty-V8, VIN #1FD8W3F65BEA67564 because it belongs to Ricky D. Sharpton	12/12/16
Ricky D. Sharpton, 3400 East Airport Road, Stillwater, OK 74075, President/Manager	\$4,300.00	Transfer of 2014 Cargo Craft of Texas Expedition – 7022 cargo trailer ID/Serial #4D6EB1220EC037911	12/12/16
Ricky D. Sharpton, 3400 East Airport Road, Stillwater, OK 74075	\$25,375.00	Transfer of 2014 Ford F250 Super Duty-V8, VIN #1FT7W2BT0EEB76511, located at 3400 East Airport Road, Stillwater, OK 74075	12/12/16
Ricky D. Sharpton, 3400 East Airport Road, Stillwater, OK 74075	\$15,000.00	1999 SKYL HT WINN Mobile Home, VIN #8D510796L located at 3400 East Airport Road, Stillwater, OK 74075	12/12/16
Ricky D. Sharpton, 3400 East Airport Road, Stillwater, OK 74075	\$40,000.00	Cash	06/05/17

FIRST CAUSE OF ACTION

Trustee, for her First Cause of Action incorporates all allegations herein and alleges:

9. The above transfers of funds from the Debtor to Ricky D. Sharpton were made for the benefit of the Ricky D. Sharpton (who is the sole member in this LLC), without consideration or without sufficient consideration, and were made with actual intent to hinder, delay or defraud entity, entities or creditors to which the debtor was or became indebted to, or at the time thereof was insolvent or became such as a result of such transfers.

10. Further, said transfers were to an insider; the Debtor retained possession or control of said property; the transfers were within six months of the filing of this bankruptcy; the Debtor was insolvent at the time of the transfers, or became insolvent as a result of the transfers; and at the time of the transfers, the Debtor was not paying its creditors.

11. The value of the property so transferred is the fair market value of the asset transferred at the date of transfer and interest from said date. It is estimated that the value of the property transferred is \$167,000.00 and interest from the date of the transfers.

12. Said transfers are fraudulent as to the Trustee and may be avoided by her pursuant to the provisions of state law, Title 24 O.S. §116 and 11 U.S.C. §548.

Wherefore, the Trustee prays for judgment in the sum of \$167,000.00 plus interest and court costs of \$350.00 or, in the alternative, turnover of the property transferred pursuant to 11 U.S.C. §542, or for imposition of a constructive trust and/or equitable lien upon said transferred assets in their present form and for costs incurred herein, and for such relief as the Court deems just and proper.

SECOND CAUSE OF ACTION

The Trustee, for her Second Cause of Action, incorporates all allegations herein and further alleges:

13. Upon avoidance of the transfers, the Plaintiff, as Trustee, seeks recovery of the property transferred, the proceeds thereof, or the value of such property, pursuant to 11 U.S.C. §550.

Wherefore, the Trustee prays for judgment in the sum of \$167,000.00 plus interest and court costs of \$350.00 or in the alternative for imposition of a constructive trust and/or equitable lien upon said transferred assets in their present form and for costs incurred herein, and for such relief as the Court deems just and proper.

s/SUSAN MANCHESTER
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